

REMARKS

Status of the claims

Claims 1-20 are pending.

Claims 1-5, 13, and 16 stand rejected under 35 U.S.C. § 102.

Claims 8-10, 14-15, and 19-20 stand rejected under 35 U.S.C. § 103.

Claims 1 and 13 have been amended.

None of the amendments to the claims introduces new matter.

Drawing Objections

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) because “they fail to show 16, building member, a rod, and a groove 128g as described in the specification.” Subject to the Examiner’s approval, the Applicant proposes to amend Fig. 1 to include reference number 16 indicating the building member and to amend Fig. 4 to change the reference numeral “126g” to -- 128g --, as shown in red on the attached copies of Figures 1 and 4. Support for these amendments is found at page 10, lines 1-2, and at page 14, lines 13-14.

Applicant respectfully points out to the Examiner that the rod 336 is shown in Fig. 7.

Reconsideration and withdrawal of the objections to the drawings are respectfully requested.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected claims 1-5, 13, and 16 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,911,662 to Hallsten (“the Hallsten reference”). Reconsideration and withdrawal of this rejection are respectfully requested.

As defined in amended claim 1, the invention concerns an expansion joint cover for spanning an expansion gap between building members. The claimed expansion joint cover includes a pair of elongated frames, one of which is adapted to be secured to a building member one on one side of an expansion gap and the other of which is adapted to be secured to another building member on the other side of the expansion gap.” Each elongated frame extends in, “the lengthwise direction thereof,” along a side of the expansion gap and has an “elongated planar support surface extending along the expansion gap.” The claimed expansion joint cover also includes an elongated cover having a modular center plate made up of a plurality of formed members which span the expansion gap and are supported at their ends on the planar support surfaces of the frame members for sliding movement transverse to the expansion gap.

The Hallsten reference, by contrast, is directed towards a cover for an open-topped tank or other enclosure. Col. 1, lines 57-59. The Hallsten cover does not include a pair of frames “adapted to be secured to a building member.” On the contrary, the cover is secured to a tank, not to a building member. Further, each member of the pair of frames is not located on either side of “an expansion gap.” As stated in the instant application, an expansion gap refers to the distance building members are from each other. (See the Instant application, page 2, lines 16-19) (“[t]he wider the expansion gap at the maximum excursion of the building members away from each other in an earthquake, the thicker the cover plate must be for a given load-carrying ability.”) As the Hallsten reference is concerned with open-topped structures, a cover for an expansion gap is not contemplated. Hallsten, therefore, does not disclose or suggest, either alone or in combination with other references of record, “a pair of elongated frames, one of which is adapted to be secured . . . to a building member extending along one side of an expansion gap and the other of which is adapted to be secured . . . to another building member extending along

the other side of the expansion gap," as recited in claim 1 of the instant application in combination with the other elements recited therein. This difference alone is sufficient to preclude the anticipation of claim 1 by the Hallsten reference.

Moreover, the Hallsten disclosure differs from the claimed expansion joint cover in still other important respects.

First, the elongated frame members 34 of Hallsten extend transversely across the open top of the tank (see Figs. 1 and 2), not lengthwise along the sides of a gap as required by claim 1.

Second, there are no "elongated planar supporting surfaces" on the Hallsten frame members 34 for supporting the planks 36 for sliding movement transverse to the frame member 34. As shown in Figs. 4A and 4B, the ends of the planks 36 are received at their ends in channels 74 of the side members 38 attached to the frame members 34. There is no disclosure or suggestion in the Hallsten reference that the planks 36 are to be slidably supported on the side members 38. Rather, the teaching of the Hallsten reference is that the frame members 34 and the planks 36 are to be joined together in "a gas tight manner. See, Col. 7, lines 38-43.

Third, the planks 36 of Hallsten do not span an "expansion gap" between "building members," but span only the space between the frame members 34. The frame member 34 themselves span the gap between the tank walls 41. See, Fig. 2.

In view of the foregoing differences between the claimed invention as defined in amended claim 1 and the fact that the Hallsten reference does not disclose each and every element of claim 1, either expressly or inherently, there can be no anticipation of claim 1 by the Hallsten reference. Accordingly, the rejection under 35 U.S.C. § 102(b) should be withdrawn, and claim 1 should be allowed.

Claims 2-5 are dependent directly upon claim 1 and are therefore also patentable over the Hallsten reference.

Claim 13, which has been amended similarly to claim 1, is patentable over the Hallsten reference for at least the same reasons that claim 1 is patentable over the Hallsten reference.

Claim 16 is dependent directly upon claim 13 and is also patentable over the Hallsten reference.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 8-10, 14-15, and 19-20 under 35 U.S.C. § 103 as being unpatentable over the Hallsten reference in view of U.S. Patent No. 3,967,426 to Ault (“the Ault reference”). Reconsideration and withdrawal of this rejection are respectfully requested based on the following remarks.

For the reasons stated above in connection with claim 1, amended claims 1 and 13 are neither anticipated nor suggested by the Hallsten reference. The Ault reference likewise fails to disclosure or suggest the claimed features missing from the Hallsten reference, and is not cited as disclosing any such features. Accordingly, claims 8-10, which are dependent on claim 1, and claims 14-15 and 19-20, which are dependent upon claim 13, are not rendered obvious by the combination of the Hallsten reference with the Ault reference.

Rejoinder of Claims 6, 7, 11, 12, 17 and 18

Claims 6, 7, 11, 12, 17, and 18 have been withdrawn as directed to a nonelected species. In view of the allowability of claims 1 and 13, rejoinder and allowance of dependent claims 6, 7, 11, 12, 17 and 18 are appropriate and are respectfully requested.

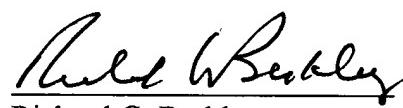
Conclusion

In view of the foregoing, the application is now believed to be in condition for formal allowance. Prompt and favorable action is respectfully requested. A check in payment of the requisite extension of time fee is enclosed.

Applicant does not believe that any additional fee is required in connection with the submission of this document. However, should any additional fee be required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit or any overpayments made, to Deposit Account 02-4377.

Respectfully submitted,
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